



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3003909
Applicant Name: Norris Bacho for Clearwire
Address of Proposal: 5913 Rainier Ave S.

SUMMARY OF PROPOSED ACTION

Land Use Application to approve new minor communication utility consisting of three panel antennas and one microwave dish on rooftop (Clearwire). Project includes one new equipment cabinet within ground level carport.

The following approvals are required:

Administrative Conditional Use Review - to allow expansion of a minor communication utility in a Multi-Family Residential Lowrise 3 (L-3) zone, pursuant to Seattle Municipal Code (SMC) 23.57.011.B.

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The proposal site is a corner property located at 5913 Rainier Ave S on the corner of Rainier Ave S. and S. Kenny St. Development on the site consists of a three-story residential building with a flat roof. The building is 27 feet tall as measured from existing grade to the roof plate.

Surrounding Zoning and Uses

The project site is located in a Residential Multi-Family Lowrise 3 (L-3) zone. L3 zoning is located to the east and south. Single Family Residential 5000 (SF 5000) zoning is located directly west of the site. NC2-40 zoning is located to the north.

The subject property is occupied by a three-story residential structure, which is taller than most of the surrounding 1-2 story buildings in this vicinity. Surrounding development consists of older residential, commercial, institutional, and single family structures.

Proposal Description

The proposed project includes installation of a new minor communication facility for Clearwire LLC. The proposed facility will consist of three panel antennas and one microwave dish antenna, all located on the roof of the building. An equipment cabinet would be located at grade next to the building under an overhang by the west parking area. The proposed antennas are each 35.8" tall x 5.5" wide x 4.7" deep. The proposed microwave dish has a 2'1" radius. All proposed antenna arrays and the microwave dish will be mounted directly to the inside of a new proposed screening structure constructed to look like a chimney and painted to match the exterior of the existing building. The "chimneys" will be composed of fiberglass screen wall material. The mechanical equipment measures 2'1" wide by 2'1" deep and 5'8" tall and would be located in a 6 foot deep by 7'3" wide fenced area adjacent to the parking stalls. The applicant has proposed to screen the mechanical equipment cabinet with chain link fencing. As conditioned in the decision below, the mechanical equipment area shall be screened with opaque materials that reflect the colors and materials of the existing building facade.

Public Comments

Public notice of this proposal was issued on January 13, 2006. DPD received no comment letters.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an Administrative Conditional Use when it meets the development standards of SMC 23.57.011C and the following criteria, as applicable.

- 1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The applicant has noted that the proposed facility is located on a multi-family structure in a Lowrise multi-family zone. The applicant has submitted coverage maps and a letter from a professional engineer explaining that the proposed location is necessary to effectively provide coverage. The applicant has demonstrated that the proposal is the least intrusive facility in the least intrusive location to effectively provide service.

The proposed design, size, and height of the antenna screening, in conjunction with visibility from the surrounding properties and structures, will render the proposed communications facility visually unobtrusive, subject to the conditions listed in the Conditions listed below. Screening structures will fully screen the proposed antennas, match the building's existing exterior, and be colored to match the building's exterior. The rooftop screening structures, because of the proposed size and materials, would appear to be a part of the roof structure and therefore will be compatible with the allowed uses in the zone.

There will be no noise impacts from the proposed antennas. There may be minimal noise impacts from the associated electrical equipment. The equipment will be located in the parking area inside equipment cabinets, which will be fully screened, subject to the Conditions, and will not be adjacent to any residential unit windows or doors.

There will be no traffic impacts or displacement of residential units.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted and the conditions listed in the Conditions listed below, the proposed antennas and equipment will be fully screened from view and be inconspicuous due to the proposed screening structures while remaining functionally effective for service coverage, subject to the Conditions of Approval. Therefore, the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
 - a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
 - b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this criterion does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The existing building roof plate is 27 feet above average grade, which is conforming for this zone (30 foot maximum height limit). The top of the proposed antenna mounting height and upper edge of screening are 37 above average grade. The proposed height conforms to the zoning requirements, so this criterion does not apply.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this criterion does not apply to the subject proposal.

Summary

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities in Lowrise zones. The proposed facility is minor in nature, will not be detrimental to the surrounding area, and will provide adequate service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated January 3, 2006. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-term Impacts

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and the equipment may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impacts policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:00 a.m. and 6:00 p.m.

Long-term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City’s experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

DECISION

This decision was made after review of a completed environmental checklist and other information on file with the responsible department and by the responsible official on behalf of the lead agency. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

Prior to MUP Issuance

1. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building. The applicant shall revise the screening for the mechanical equipment area at grade to include opaque screening materials that reflect the colors and materials of the existing building exterior. Screening shall be approved by the Land Use Planner prior to MUP issuance.

For the Life of the Project

2. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building. Rooftop antennas shall be screened as shown in the photo simulations and plans provided with the submittal.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the each street right-of-way and the alley. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:00 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file)
Shelley Bolser, Land Use Planner
Department of Planning and Development

Date: August 28, 2006